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ABSTRACT

Despite the large size and scope of postsecondary education in New York and the resulting complexities that exist, there is a strong commitment to pluralistic education. A basic premise in the governance of postsecondary education in New York is that statewide planning and coordination must be directed so that institutions, in making their separate decisions, can chart their paths with relationship to what other institutions regionally and across the state are planning, while assuring that state and federal resources are used to achieve the goals established for the state as a whole. Part 1 of the document discusses: alternatives to the present system of governance, background on the University of the State of New York, New York State's performance in postsecondary education, the coordination of postsecondary education with other educational levels, and the relationship of regents to the state executive and legislature. Part 2 discusses changes in planning functions and procedures, citing weaknesses of statewide planning in the past as: (1) the lack of detail of institutional plans; (2) the lack of communication among public and private institutions as they proceed in the planning process, and (3) the lack of formal arrangements for articulating the budget with the planning process. Part 3 discusses governance of student aid and the Higher Education Service Corporation. Part 4 notes other governance issues that deserve some attention. (Author/KE)

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THE GOVERNANCE OF POSTSECONDARY EDUCATION

IN

NEW YORK STATE

A Statement by T. Edward Hollander
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State Education Department
to the
Governor's Task Force
on
Higher Education

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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January 16, 1975

I. THE STATEWIDE STRUCTURE FOR GOVERNING POSTSECONDARY EDUCATION

Introduction:

Consideration of the governing structure must be viewed in the context of the overall set of institutions and opportunities for postsecondary education in New York. Today there are 222 colleges and universities in the state enrolling over 656,000 full-time equivalent students. Sixty-two percent of these are enrolled in public institutions and thirty-eight percent in private institutions.

Postsecondary education in New York extends far beyond the colleges and universities. To the list must be added the twenty-four proprietary institutions awarding degrees. In addition, there are nearly 500 institutions which offer post-secondary programs, many in highly specialized fields. Included in this number are sixty-one hospital schools which offer three-year diploma programs, and the appropriateness of extending degree-granting powers to these schools is now being explored. Also included are twenty-four technical institutions which accept only high school graduates, thirty-five registered private business schools which require high school graduation for admission, and over 350 other institutions offering postsecondary courses of study.

These statistics indicate the immense size and scope of postsecondary education in New York and the complexities that must exist in the State's system of governance. There is no monolithic system for postsecondary decision-making in New York. Decisions are made on the individual campuses in both the public and private sectors of postsecondary education; by the central administration of the State and City Universities; at the State level by the Regents, the Legislature, and the Governor; and by federal agencies funding educational programs and the Congress.

We are committed to a pluralistic system of postsecondary education for New York in which students can choose among public, nonprofit or proprietary institutions, large or small, in rural or urban settings, in the arts or sciences, for professional preparation, for occupational training, in more traditional or more innovative programs. Diversity of opportunity is assured to the extent that decision-making permits and encourages alternatives.

A basic premise in the governance of postsecondary education in New York is that statewide planning and coordination must be directed so that institutions, in making their separate decisions,

can chart their paths with relationship to what other institutions regionally and across the State are planning, while assuring that State and Federal resources are used to achieve the goals established for the State as a whole.

Issues:

The issues of educational governance have been debated through the years. One of the most recent extended debates occurred in the Constitutional Convention of 1967. In considering the constitutional provisions for the governance of education, two alternatives to the present system were discussed at the Convention in 1967 and in the preliminary planning for a Constitutional Convention which was scheduled for the late 1950's but was never held. These alternatives are: (1) A separate board of postsecondary education such as exists in other States, and (2) to end the independent status of education in New York by placing it under the control of the executive branch of government. These alternatives to the present system have never attracted much support in New York (for example, the 1967 Constitutional Convention made no recommendations for basic change), but they are usually raised when the subject of governance comes up.

(1) The common arguments in favor of a separate board of postsecondary education maintains that a single agency might be overwhelmed beyond its adaptive range by a multitude of complex educational problems, and particularly in a large State like New York, the single agency could develop into a massive bureaucracy that might discourage creativity and be insensitive to change and unresponsive to more local or regional needs.

These problems are often cited, but it is not true that only comprehensive educational systems are subject to them. In the many agencies and bureaucracies created by our local, State, and Federal governments, it is easy enough to find agencies that are overwhelmed by few and small problems. And the number of small organizations characterized by tendencies to smother creativity is legion.

(2) The arguments in favor of making education a direct part of the executive branch of government are:

1. The present separation of the administration of the Education Department from other departments of government has led to conflict within State government over basic educational policy, and control by the Governor would aid in assuring harmony in overall state planning.

2. Public interest in education makes it desirable that it be brought closer to the electorate by placing it under the Executive.
3. The great power vested in the Commissioner, independent of his authority as executive officer for the Regents, requires that his office be more directly responsible to the electorate through the Governor.
4. The separation of education from other aspects of government is inconsistent with the principle of executive responsibility and inappropriate in an activity of such great moment to other affairs of government and public policy in general.
5. Elected department heads or department heads appointed by lay boards weaken executive responsibility and lead to internal conflicts in state administration.

The basic argument against such a change is that educational policy is a matter which transcends the term of any governor or even any one generation, and the present system is responsive to the people without requiring a popular vote. What is done in

education today has its greatest impact in the future. State educational leadership must be free to oppose attempts by this generation to escape its responsibility to future generations. A degree of independence for education is vital for achieving its citizenship role, and continuity is essential in educational policymaking. There must be a body responsible for education which bridges the gap from one executive to another and from one legislature to the next.

The history of this State supports the present method as one which evolved out of years of experience. It has led to an appropriate balance of power among the Governor, the Regents, and the Legislature.

The existing arrangement provides for a system of statewide planning, including all elements relating to postsecondary education--private non-profit, public, and proprietary institutions--which sets forth and provides for periodic reevaluation of enrollments, academic programs, financial and instructional goals, so that academic development and educational change can be wisely planned.

The Board of Regents, which does not operate educational programs and is not, therefore, in competition with other educational institutions, is the coordinating board responsible

for statewide planning, and can thus draw upon all elements of the postsecondary community to assist in developing plans. As the coordinating board, the Regents can be objective with respect to the planning and coordination of all sections of postsecondary education, and act in the best interests of the public and the State as a whole.

Under New York's system of educational governance, the determination of which public monies are needed and what public revenues should be raised in support of education is decided by the elected officials - the Legislature and the Governor. These elected officials also have the ultimate power to determine the major educational directions and goals that influence public funding levels.

An understanding of the rationale for the present system of governance requires knowledge of the background and scope of The University of the State of New York.

Background on The University of the State of New York:

The University of the State of New York established by the Legislature in 1784, is the oldest continuous State educational agency in America. The Board of Regents is responsible for the general supervision of all educational activities within the State. The Regents preside over The

University of the State of New York, and the term "university" is here used in a different sense than is commonly employed. The University of the State of New York is a broad term encompassing all the educational institutions in the State, both public and private, within a unified system of education.

The idea of a unified educational system under State control, and the use of the term "university" to express this conception, appears to have originated in France. The idea was advocated by French philosophers and political leaders in the 18th century. Yet, The University of the State of New York antedates by 25 years the comparable French national system of education organized under the title of The University of France.

The State Constitution, in Article XI, insures that the Regents are an independent body, separate and apart from the Governor, the attorney general, and the comptroller, the only other constitutional officers. The Regents and the University thus have the protective autonomy of constitutional status.

The Commissioner of Education is the chief executive officer of the Regents. He is appointed by the Regents and serves at their pleasure. By Regents Rule, he is also designated as the President of The University of the State of New York.

The executive agency for the Regents is the State Education Department, headed by the Commissioner of Education. In addition, hundreds of citizens are appointed by the Regents to serve on various boards. These bodies contribute much to the long-range studies, programs, and plans developed by the Regents, and put into effect by the Governor and the Legislature. The cooperation between private citizens, institutions, the Governor, the Legislature, the Regents, and the Education Department enables New York State to provide ever-increasing educational services to its citizens.

The Regents set education policy. They have the authority to make general rules which have the full force and effect of law. Also, Regulations of the Commissioner of Education, which must be approved by the Regents, establish specific minimum standards for maintaining educational quality.

The Regents supervise all public and private elementary and secondary schools; distribute public funds for educational purposes; encourage adult education; incorporate colleges and universities; authorize the granting of degrees; accredit courses of study both within and without the State and in foreign countries; prepare master plans for the public schools and for the development of postsecondary education; incorporate libraries, and distribute

library funds; incorporate and supervise museums; certify teachers; license, discipline, and establish standards for professionals, including physicians, dentists, nurses, psychologists, pharmacists, engineers, architects, and certified public accountants.

The University of the State of New York was conceived as a universal system of education. It is still the most comprehensive system in the country, encompassing all education from pre-kindergarten to post-graduate programs. It includes public and private schools, public libraries, and museums. The Regents may include in the University any institution or association for the promotion of education, literature, science, art, or for similar purposes, which they deem worthy of their recognition.

The Regents are responsible for the overall planning, the development and supervision of the largest State educational system in the world, a system that enrolls more than five million students in 750 local school districts and over 245 degree-granting institutions.

The authority to plan and coordinate all levels of education, colleges as well as elementary and secondary schools, is one of the chief advantages of New York's education system.

New York State's Performance in Postsecondary Education

New York's effort, coordinated by the Regents, compares favorably to that of any other State, and it is superior to most. New York ranks second in the Nation in making higher education accessible to high school graduates. It has the second highest enrollment among the fifty states. It ranks first in graduate enrollment, and it shares first place with California in its level of State support for postsecondary education. New York State today offers the widest variety of postsecondary (including collegiate and non-collegiate institutions) in the Nation.

The high quality of postsecondary education is assured by the accreditation procedures of the Regents who are the only State agency recognized as an accrediting agency by the United States Office of Education. The Regents have prevented diploma mills from operating in New York State, and limited access to fake degrees by New York State residents. A two-year study of master's degree education recently instituted by the Regents identified areas for major reforms, and has led to major changes in institutional evaluation procedures in public and private institutions. The doctoral evaluation process, now underway in consultation with the higher education community will assure that New York's resources are committed to the highest quality program.

The Regents have been a prime mover in educational reform. Through the Regents external degree program, the Board of Regents has taken national leadership in providing an alternate route to a college degree for people who prepare themselves on the whole. or in part, on their own. By encouraging experimentation, the Regents have played an influential role in the development of accelerated programs of study in the State, including three-year baccalaureate degrees, the six-year medical degree, and four-year combined baccalaureate and master's degrees. The Regents responsibility for all educational levels has spurred the interrelations of institutions in reform that is without parallel in the Nation.

The important principles defined by the Carnegie Commission on Higher Education, of encouraging diversity, avoiding homogeneity, and preserving fundamental institutional autonomy and integrity are safe-guarded by the present system of governance which has already been described.

Coordination of Postsecondary Education With Other Educational Levels

The coordination of the Regents of all education from bottom to top has been of inestimable value in these times when the lines of demarcation among levels of education and types of assistance are becoming, and need to become, increasingly less rigid. Several

other states, including Idaho, Florida, Pennsylvania, and Rhode Island, have similar arrangements for coordination. There are vast differences in the tables of organization and the ways that specific responsibilities are handled in these states, but they are joined in a common belief that education at every level is part of a seamless fabric. There is a growing realization that the best organization for an educational system is that which promotes the greatest possible interaction among the various educational levels from pre-kindergarten through post-doctoral studies.

The lines of demarcation among the several educational levels have never been sharp, and anyone who has watched the development of elementary and secondary schools and post-secondary institutions is aware that the lines of demarcation are becoming even less clear.

The University of the State of New York is well organized for developing policies which cut across all levels of education, for avoiding wasteful duplication of effort by making full use of resources at all educational levels, and for determining priorities for the allocation of scarce resources where they are most needed. The Regents establish priorities for all levels of education, and the State Education Department has developed budgetary procedures that cut across the Department to insure that sufficient resources are allocated to the

priorities established by the Regents and to show what programs must be dropped or reduced in effort in order to apply additional resources to programs of higher priority.

Almost every professional staff member of the Education Department is involved in projects that require coordination between different levels of education.

There is a tremendous advantage that New York's system has in promoting the greatest interaction among the various educational levels from pre-kindergarten through post-doctoral studies. This is a strength inherent in our system of governance, and New York is far ahead of any other state in providing needed coordination of all educational activities. Such coordination is impossible or at best extremely difficult and slow to initiate in states which have separate boards of postsecondary education.

Relationships of Regents to the State Executive and Legislature

A high degree of independence is provided at the state level in New York by a legal structure which places all of education under the general control and supervision of the Regents. Throughout the long history of its operation this structure has proved most effective in assuring maximum autonomy for our schools and colleges, public and private.

It is important to note the concern expressed by the Carnegie Commission on Higher Education in The Capitol and the Campus with the growing dominance of governors over higher education in several of the states. The Commission believes, as a result of its study, that governors should not be the dominant force in higher education, and that "The standard system of checks and balances, and the standard rule of avoidance of conflict of interests should apply to the relationship of governors to higher education."

The Regents have long recognized the interdependence of all functions and levels of government and are aware of the necessity of close cooperation between the Education and Executive Departments, not only for the solution of the problems of education itself, but for carrying out the other responsibilities of government for meeting the highly complex problems of an increasingly interdependent society. Nevertheless, it should be emphasized that independence for education in the structure of government does not preclude full cooperation and that this independence should continue to prevail, for without it education can serve neither itself nor government and the people with maximum usefulness.

Cooperation between the Regents and the Executive has brought notable advances for education in the past decade and a half. To give some examples, in 1959 the Regents and the Governor set up the New York State Committee on Higher Education (The Heald Committee). The Heald Committee's recommendations established the framework for the vigorous and unprecedented expansion of higher education in New York State. In 1967, the Regents and the Governor established the Bundy Commission which developed an important new program for financing private higher education. In 1969, the Regents and the Governor established the New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education--the Fleischmann Commission--the scope of whose recommendations will require years of cooperative effort on the part of all branches of government.

Less known is the fact that the essential elements of the TAP program and a companion graduate fellowship program was worked out between Governor Rockefeller's staff and the SED staff, although the latter was excluded from the executive budget after Governor Rockefeller's resignation.

As these examples illustrate, the educational system under the Board of Regents, while independent of partisan politics, does not and indeed cannot function in isolation from the other branches of government.

I, therefore, urge that the Task Force affirm the soundness of the existing overall state structure for education.

Why do I dwell so long on this background? The possibility of a separate board for postsecondary education is raised periodically because of the prevalence of this practice in other states. The Federal Education Amendments of 1972 provided for the establishment of "1202 Commission" primarily to encourage the level in quality of planning in other states that we have in place here. Recent studies by Lyman Glenny reaffirms that comprehensive planning for post-secondary education exists in New York State, but is still only in development in other states. In 1973, the Education Commission of the States issued a report, Coordination or Chaos? which pointed out the problems in many states in the coordination of postsecondary education. The report suggested desirable characteristics for the coordination of postsecondary education. It also stressed the importance of articulating postsecondary with the elementary and secondary education.

Language in the Federal legislation for representation on the "1202 Commission" attempted to deal with the lack of representation of community colleges, technical institutes, and proprietary institutions in the planning process in other states, as well as a concern that the interests of minorities and women were not adequately considered in postsecondary education. These have never been issues in New York.

The Regents are now designated as the "1202 Commission" in New York State. They were so designated by Governor Wilson with the support of all sectors in postsecondary education. Their designation by the Governor was affirmed by the Federal government. The legal basis for this designation should be clear from the information included in Appendix A.

However, certain changes in the statewide planning procedure could strengthen it further.

II. CHANGES IN PLANNING FUNCTIONS AND PROCEDURES

The weaknesses of statewide planning in the past have been in (1) the lack of detail of institutional plans, (2) the lack of communication among public and private institutions as they proceed in the planning process, and (3) the lack of formal arrangements for articulating the budget process with the planning process.

Lack of Detail:

The separate plans developed by the State University, The City University, and the Commission on Independent Colleges and Universities have tended to be statements of policy and principles rather than comprehensive plans. They lacked detail or data support and (with the exception of the private institutions) were not supported by individual institutional plans.

The Regents now provide a more adequate data base for planning and have in consultation with the postsecondary education community defined with greater specificity the content of the plans expected from the public and private sectors. The results of these efforts are seen in the master plans submitted by most private and many public institutions in 1972. More comprehensive institutional plans are expected in 1976.

Lack of Communication Among Public and Private Institutions As They Proceed in the Planning Process:

Plans of private institutions are transmitted through the Commission of Independent Colleges and Universities, and plans of public institutions are developed centrally by The City

University of New York and State University of New York after consultation with their constituent units. This process limits opportunities for joint planning among public and private institutions, exchange of plans among institutions, or even consideration of each other's plans.

The Regents have recommended that Regents Regional Advisory Councils be designated for each of the eight postsecondary planning regions and that one of the Councils' major functions be to plan continuously in meeting needs that are essentially regional. Three Councils have been established, but without funding for staff, their activities have not reached their full potential.

Articulating the Planning Process With the Budget Process:

The Regents now exercise sufficient powers over new institutions and program development to assure adequate coordination and consistency between statewide plans and statewide needs. They comment on facilities construction in the private sector financed through Dormitory Authority bonding.

Consideration should be given to amending the "planning law" to require that the Regents comment on, though not approve, the operating and capital budget submissions of the State and City Universities to determine their consistency with the statewide plan.

III. GOVERNANCE OVER STUDENT AID: Higher Education Service Corporation

Last year, the State Legislature, in passing the bill that established the Tuition Assistance Program, established a new

authority for administering the State's student aid and loan program. The Higher Education Services Corporation was established with the belief that a new public authority could simplify student aid programs, an objective we all consider essential. However, the establishment of such a corporation would not, in itself, bring about the simplification of the present system of student aid.

-- Most aid would, and should, continue to be the responsibility of the institutions themselves. They are best able to measure "need" on an individual basis and use institutional funds to complement all other programs. Institutions would continue to require detailed information on applicants.

-- Banks would continue to require loan applications for Federally guaranteed loans, and students would still be required to meet Federal criteria for Federal loan guarantees.

-- The Federal government would continue, in the near future, to distribute its grants directly to the relatively limited number of students meeting Federal criteria. Grant awards are based upon direct student application to the Federal contractor. The Federal government, not the State, determines who that contractor will be.

The new public benefit corporation would not solve these problems. The Corporation is an additional administrative entity not subject to the civil service system and the regular State agency budgetary procedures. While most "authorities" and public benefit corporations are established to expend revenues or funds raised through bond issues, the proposed Corporation would spend over $100 million in funds which would be part of the State Purposes Budget.

The Corporation cannot help but become directly involved in educational policy-making. The determination of criteria defining eligible students, registered programs and approved institutions, is now a major educational responsibility of the Regents. Educational strategies related to aid levels of opportunity students are defined by the Regents after consultation with the postsecondary education community. We are fearful of a confusing split in responsibilities between the Regents and the Corporation. To divide responsibilities between the new Corporation and the Regents may well lead to duplicate efforts of staff and would contribute to poorer coordination of educational policy-making.

Under the legislation, the Corporation will take responsibility for aid and loan programs on July 1, 1975. An additional $825,000 has been appropriated to finance the administration of student aid programs now administered by the State Education Department and loan programs administered through the Higher Education Assistance Corporation. I hope you will examine whether the issue should be reconsidered at this session. One alternative is to continue student aid programs as a Departmental function and bring the present loan program within the State Education Department.

Simplification and coordination of student aid depends more upon successful efforts at the Federal level than it does on new statewide mechanisms. Appendix B suggests an approach that is

feasible, less costly, and depends upon less, rather than more, fragmentation of policy and administration.

IV. OTHER GOVERNANCE ISSUES

There are several other issues in the area of governance you may want to consider.

-- The need to clarify the status of the community colleges in New York City which are now subject to governance both by the Board of Higher Education as a sponsoring agency and the Board of Trustees of the State University as the legally designated governing agency. The severance bill passed at the last legislative session but vetoed by the Governor was supported by the Regents, CUNY and SUNY. It is worthy of reconsideration.

-- The need to examine whether the present system of control of community college budgets by local sponsors affords them the necessary flexibility for academic planning and operation. The issue has been hotly debated in past years, and the Legislature has been unwilling to mandate a change in the present arrangement. One possibility is to bring the upstate community colleges into a relationship with SUNY comparable to the relationship between the City's community colleges and CUNY. SUNY should receive greater coordinating power over the upstate community colleges.

-- The need to examine whether the present structure of public and private institutions is the most appropriate for the next decades. I believe, with modification, that it is. However, alternatives have developed in other states and in Canada and should be explored to determine if there is anything to be learned that might be applicable to New York State.

-- The issue of regionalism should be thoroughly explored. The Regents proposal for regional advisory councils is one approach. Alternative arrangements for regional operating arrangements to provide for better sharing of resources could be examined. For example, how can we best facilitate cross-registration among institutions, shared computer facilities,

joint doctoral programs, shared regional continuing education programs and college counselling and information centers? These programs have been established or are in the process of being established. What governance arrangements are most appropriate?

-- The relationship of the Board of Higher Education to the City and State governments is usually on the list of most governance studies. This issue has just been resolved, but its further consideration is inevitable if any change is made in the State's share of CUNY's expenditures.

-- The relationship of SUNY to the State governance and budgetary process deserves some attention. I have long felt that the State's close surveillance of SUNY's budget may be too detailed to permit the State University the freedom to operate within the constraints of its approved master plan.

-- Periodically, questions are raised about the relationship of the CUNY and SUNY central offices to the operation of the constituent colleges of the two systems. Questions of central coordination vis-a-vis institutional autonomy continue to be explored and discussed. I add this item to make the list complete, but I wonder whether any constructive effort could result from such an examination. These issues, perhaps, are best left to be continuously re-examined internally within the institutions.

-- The need to determine whether the present system for fiscal accountability by private institutions is adequate in relationship to the state aid they receive. I must add that the private sector is held to the same levels of educational accountability as the public institutions. In the area of fiscal accountability, private institutions submit detailed reports on their financial operations. These data are reported publicly in State Education Department reports. Should we do more? The answer, I think, depends upon the level of support provided and whether it is provided directly or through student aid. My own view is that the State receives more than adequate information for the funds now made available.

I am sure you can think of additional issues in the area of governance and I'd be happy to comment on these if you wish.

In closing, I want to state my belief that New York State enjoys the most comprehensive system of coordination and governance that has been developed anywhere. More important still, we have a mechanism for limiting unwarranted governmental intervention in our system, yet achieving a high degree of coordination and a sensible system of academic and fiscal accountability. The accomplishments of our post-secondary system testify to its basic soundness. I have explored some possibilities for strengthening it further. Whatever we do, I hope it will be within the basic framework of the Regents that has worked so well in New York State.